



—Associated Press

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Argie Stewart, a tractor dealer at Poplarville, said that when a farmer saw his new Belarus models and vowed to Never Buy Red, his counter-argument was simple.

"I JUST ASKED how much German or Japanese stuff he

THURMONT, Md. (UPI) — Mrs. Mae Carbaugh, 78, says life in her battered trailer on a mountainside "isn't the greatest, but it's home and here I'm the boss."

Mrs. Carbaugh lives alone in a green and silver trailer on Blue Ridge Mountain in rural Frederick County overlooking a winding creek, five-miles from the presidential retreat in Camp David.

**HER ESTATE** includes a wooden outhouse and three nameless cats.

"I get up when I want to, go to sleep when I want to and eat what and when I want to," she says.

Known here as the "Cat Woman," she wears ragged clothes, gets water from the creek and harvests wild plants. She also has been a target for some menacing kids, particularly on the night before Halloween.

Her trailer is dented and its windows boarded, bearing the scars of her skirmishes with the kids.

**MRS. CARBAUGH**, born on a farm in Laurel, Del., moved to nearby Emmitsburg, Md. after her marriage in the early 1930s. She moved to Thurmont after the death of her husband.



Washington Star-News  
Monday, June 24, 1974

A-3  
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## '...Here I'm the Boss'

A-4  
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Washington Star-News  
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## Cramer's 9 to 4:30

# Falsifying the Payroll Records

By John Cramer  
Star-News Staff Writer

Today I give you a certified case of a federal agency falsifying its payroll records to its own financial advantage — and the disadvantage of its employees.

The agency is the Naval Field Operational Intelligence Office, a unit of the Naval Intelligence Command, Ft. Meade, Md.

FOR ROUGHLY two years, ending in early 1973, it had 15 to 22 employees in its Naval Ocean Surveillance Information Center assigned to shift work. They worked 40 hours two weeks out of every four, 28 hours one week and 52 hours the fourth week.

By law, all those below GS-11 (and the majority were) had the right to 12 hours overtime, at time-and-a-half pay, for each 52-hour week. Those above GS-11 were entitled to compensatory time off.

But the Office falsified their payroll records. It paid them as if they had worked standard 40-hour weeks.

Out of fear, perhaps, none of the employees complained until early this year when a young worker resigned — and presented his claim for retroactive overtime pay.

HE PRESENTED it to the chief of the Navy Accounting and Finance Center. He backed it up with:

- Copies of his sign-in-sign-out time sheets for the period February 1972 to April 1973.
- Copies of his pay cards.
- Copies of the Navy Office's watch bills (work assignment sheets).

The Navy Accounting and Finance Center conducted its own investigation. Then Rear Adm. W. McHenry, its chief, wrote the boss of the Ft. Meade unit saying:

"... A review was made of all provided documentation. The three major sources were the biweekly time cards, the NOSIC watch bills, and the employee's sign-in-sign-out sheets. . . . There was a high degree of correlation between the watch bills and the employee's sign-in-sign-out sheets but little agreement between the watch bills and the biweekly time cards.

"The time cards reflect for the most part a straight 40-hour week (80-hour pay period) with only nominal overtime hours."

McHENRY directed NOSIC to pay the young employee for 222.5 hours at overtime rates — a total of \$1,656.63. But he further directed that he be charged 172 hours of annual leave for time away from the job during his 28-hour weeks.

The employee wound up with a net of \$499.07, which NOSIC promptly paid.

However, McHenry also wrote:

"It is requested that the Naval Field Intelligence Operational Office handle all similar cases in the same manner."

THE OFFICE still hasn't done so. But a spokesman says "employees will be advised of possible overtime entitlement at a general meeting of civilian personnel in the next few days."

This column will advise when the office announces its decision to repay employees the money it illegally withheld by falsifying its payroll.

HERE'S GOOD news for some 382 D.C. Manpower Administration employees facing transfer from the

Labor Department to the D.C. government under the new Home Rule Act.

As written, the act provides they'll retain their rights as civil service employees only as long as they remain in their present jobs. Potentially, they could lose their rights even if their jobs were reclassified.

That particular section of the act was based on a never-issued proposed presidential executive order which would have accomplished the transfer several years ago.

By contrast, employees of the Redevelopment Land Agency and the National Capital Housing Authority will transfer to the D.C. government with no loss of rights.

The good news is this:

- Mayor Walter Washington, the Labor Department and the AFL-CIO American Federation of Government Employees are in agreement that Manpower employees should retain their rights.
- Washington has submitted proposed legislation to the House District Committee.
- And the committee, which is expected to be sympathetic, probably will hold hearings on the mayor's proposal sometime this week.

COMPTROLLER General Elmer B. Staats has gone before a House Government Operations subcommittee to endorse legislation which would:

- Give the General Accounting Office control of its own building, now managed by the General Services Administration. The GAO now is the only legislative agency not in control of its building.
- Transfer the GAO's freight and passenger transportation audit service to Executive Branch agencies to be designated by the Office of Management and Budget. However, the GAO would continue audit review functions and also hear and decide appeals on contested claims.

(2) *Time in travel status.* (a) Law. "(b) For the purpose of this subchapter—

~~"(2) time spent in a travel status away from the official-duty station of an employee is not hours of employment unless—~~

~~"(A) that time spent is within the days and hours of the regularly scheduled administrative workweek of the employee, including regularly scheduled overtime hours; or~~

~~"(B) the travel (i) involves the performance of work while traveling, (ii) is incident to travel that involves the performance of work while traveling, (iii) is carried out under arduous conditions, or (iv) results from an event which could not be scheduled or controlled administratively." (Section 5542 of title 5, United States Code)~~

(b) Regulation. "(e) *Time in travel status.* Time in travel status away from the official duty-station of an employee is deemed employment only when:

"(1) It is within his regularly scheduled administrative workweek, including regular overtime work; or

"(2) The travel (i) involves the performance of actual work while traveling, (ii) is incident to travel that involves the performance of work while traveling, (iii) is carried out under such arduous and unusual conditions that the travel is inseparable from work, or (iv) results from an event which could not be scheduled or controlled administratively." (Section 550.112)

(c) *Time in travel status.* (i) General.

—In its report on the Federal Salary Act of 1967 (Public Law 90-206), the Senate Committee on Post Office and Civil Service stated its philosophy on the changes in the law relating to time in a travel status as follows:

"... An employee should not be required to travel on his off day in order to be at work at a temporary duty station early Monday morning to attend a meeting. It is an imposition upon his private life that should not be made. Nevertheless, pay for travel status should not be made so attractive that employees would seek to travel on

their off days in order to receive overtime pay. Proper scheduling and administrative planning is the answer to the problems of travel pay in many cases. When emergencies occur or when events cannot be controlled realistically by those in authority, traveltime must be paid for." (Emphasis supplied)

—Thus, it is apparent that it was the intent of Congress that whenever possible an employee's travel should be scheduled within his regularly scheduled work hours. It was recognized that situations will develop when the employee will be required to travel away from his official duty station outside his regularly scheduled work hours; when this travel is performed under one of the four conditions in section 550.112(e) of the Commission's regulations, it is *hours of employment* for pay purposes. When the travel is not performed under one of the four conditions in section 550.112(e), it is not *hours of employment* and the reasons for requiring the travel must be recorded (see book 610, subchapter S1.)

—With the congressional intent in mind each agency should develop the necessary administrative procedures and guidelines to insure that its officials comply with the statutory and regulatory requirements and intent in scheduling travel as well as in requiring an employee to travel within his regularly scheduled work hours.

(ii) *Administrative considerations.*

—Although time in a travel status away from an employee's official duty station may meet the conditions in the regulations for being considered as hours of employment, it is not payable as overtime unless travel outside regularly scheduled duty hours is officially ordered or approved. Thus, ~~to be payable as overtime, the appropriate~~

~~official must require the employee to travel outside his regularly scheduled work hours under one of the qualifying conditions, or after the travel is performed he must approve the time of travel. To this extent time in a travel status is no different than other over-time hours.~~

- It is to be noted that if the hours in a travel status are those for which over-time pay is warranted, it may be appropriate to pay the employee by means of compensatory time off. Thus, an agency may be able to keep its out-of-pocket travel time cost increases to a minimum by the appropriate use of compensatory time.

(iii) *Time in travel status away from the official duty station.*

- Before considering the various conditions under which travel is considered hours of work, it is well to consider when an employee's time in travel status begins, and what is meant by (1) official duty station, and (2) travel status.

- By official duty station we mean the ~~employee's designated post of duty, the limits of which will be the corporate limits of the city or town in which the employee is stationed, but if not stationed in an incorporated city or town, the official duty station is the reservation, station, or established area, or, for large reservations, the established subdivision thereof, having definite boundaries within which the designated post of duty is located. This use is the same use of this term as in the Standardized Government Travel Regulations.~~

- ~~In determining the amount of time in a travel status which would be included as hours of employment, an employee is considered to be in a travel status only for those hours actually spent traveling between his official duty~~

~~station and his point of destination, or between two temporary duty points, and for usual waiting time which interrupts the travel.~~

- Generally, when traveling by means of a common carrier, time in travel status begins with the scheduled time of departure from the common carrier terminal, and ends upon arrival at the common carrier terminal located at the point of destination. Thus, travel from station, wharf, or other common carrier terminal to either place of business or residence (including temporary place of business or residence) and from either place of business or residence to station, wharf, or other common terminal is not considered time in travel status. An exception to this rule is when the employee must spend one hour or more in travel between the common carrier terminal and place of business or residence; then the entire time spent traveling between the carrier terminal and place of business or residence (i.e., actual time spent traveling, exclusive of waiting time at terminal prior to scheduled departure time) is considered hours of employment.
- When an employee travels by automobile, time spent in transit between residence and place of business may not be regarded as time spent in travel status away from the official duty station. The time in travel status begins with departure from the employee's place of business or headquarters, and ends with arrival at the point of destination. When the employee travels from his residence directly to the point of destination, the time consumed will be considered time spent in travel status away from the official duty station; however, the estimated travel time from the employee's place of business to the point

of destination must be regarded as the maximum limitation upon travel time which is payable under the law and the Commission's regulations. (See 41 Comp. Gen. 82.)

—When an employee for personal reasons, such as an aversion to flying, does not use the mode of transportation selected by the agency, or for his own convenience travels by an indirect route or interrupts travel, the employee will be considered to be in a travel status only for the estimated time which would be spent in traveling to the point of destination by the mode of transportation selected by the agency.

(iv) Conditions under which travel is considered hours of work.

—Travel which occurs within the employee's regularly scheduled hours of work and travel which involves the performance of work or which is carried out under such arduous and unusual conditions that it is inseparable from work, are not new conditions under which travel is considered hours of employment. Generally, the travel or transportation conditions must be viewed in the light of particular circumstances under which the travel is required. However, the Comptroller General, in a number of decisions, has established certain guides.

—Thus, travel under arduous conditions would include travel over unusually adverse terrain, during severe weather conditions, or to remote, barely accessible facilities by foot, horseback, or a truck. Travel by automobile over a hard surfaced road when no unusually adverse weather conditions are encountered, or travel by rail would not normally constitute travel under arduous conditions. In addition, the time of travel (whether to be performed during day or night) or distance

traveled, is not ordinarily considered in determining whether the travel is performed under arduous conditions. A distinction should also be drawn between arduous conditions and hazardous conditions, keeping in mind that the latter may contribute to the former. (See 28 Comp. Gen. 547; 41 id 82.)

—Travel which involves the performance of work while traveling generally means, within the statute and the Commission's regulations, work which can only be performed while traveling (such as monitoring communications or signal devices used in air or rail traffic or escorting a prisoner to a distant prison). On the other hand, when an agency requires an employee to perform work while traveling, the time spent performing the work is work even though it is the kind of work that would ordinarily be performed at the employee's place of business. In this latter situation, the criteria used in determining whether or not the work was required to be performed while traveling will be that which is used in determining whether or not overtime work is officially ordered or approved. Pay, if warranted, will be limited to time actually spent working.

—Travel which "is incident to travel that involves the performance of work while traveling" is a new condition under which travel is considered to be hours of employment. An employee generally will be in this situation when he is on a "deadhead" trip, either traveling to a destination to board a means of transportation upon which he will be performing work while traveling or, having performed work while traveling, returning to his official duty station. Entitlement under this condition is limited to the situation

where the work performed while traveling is work which can only be performed while traveling. It should be noted that the travel still must meet the requirement of being "away from the official duty station" to be considered hours of employment. (See Comptroller General decision B-163608, April 29, 1968.) An example of travel of this type is a truck driver deadheading to a point of pickup of a truck to be driven to another destination. An example of travel not meeting this condition would be travel by an employee to a point to hold a hearing even though he is required to review the transcript during his return trip (which would be payable as overtime work) since this is not the kind of work which can only be performed while traveling.

Travel which results from an event which cannot be scheduled or controlled administratively is also a new condition under which travel is considered hours of work. The phrase "could not be scheduled or controlled administratively" refers to the ability of an executive agency (as defined in section 105 of title 5, United States Code) and the government of the District of Columbia to control the event which necessitates an employee's travel. The control is assumed to be the agency's whether the agency has sole control, or the control is achieved through a group of agencies acting in concert, such as a training program or conference sponsored by a group of Federal agencies, or sponsored by one in the interest of all, or through several agencies participating in an activity of mutual concern, such as an agency hearing on an aircraft accident.

For example, training courses throughout the country generally are sched-

uled to start at the beginning of the workweek, and usually start at 9 a.m. daily. Attendance at training centers located away from an employee's duty station, therefore, usually will require the employee to travel outside his normal work hours. Since the agency which is conducting the training course can schedule the hours of training, the training course is an event which can be scheduled or controlled administratively; and employees who attend the course will not be paid for time in travel status regardless of whether employed by the agency conducting the training course or another agency.

On the other hand, travel will be considered hours of work when it results from unforeseen circumstances (e.g., a breakdown of equipment) or from an event which is scheduled or controlled by someone or some organization outside of Government. (See Comptroller General decision B-163654, April 19, 1968.)

#### Examples

The following additional examples are given as an aid in applying section 550.112(e) to travel which results from an event which cannot be scheduled or controlled administratively.

#### Case No. 1:

A recruiter-interviewer, stationed in New York City, is notified by Cornell University in Ithaca, N.Y., that it has facilities available for conducting interviews on Monday and Tuesday of a given week. Interviews have been scheduled for him by the university to begin at 8 a.m. and end at 2 p.m. Tuesday.

The only flights to Ithaca from the New York City area depart Newark Airport daily at 9 a.m. and 5 p.m.

Flights depart Ithaca for New York City at 8 a.m. and 7 p.m. daily. The flight time between New York City and Ithaca (in either direction) is one hour. Travel between Ithaca and New York City by means of automobile, bus, or train will exceed six hours in every case. It will take the employee one hour to reach Newark Airport from his residence, a distance of 30 miles; and, upon arriving at Ithaca, it will take him one-half hour to reach his motel, a distance of 10 miles.

**Determination:**

Since the interview is scheduled by the university and not the agency, the employee is entitled to overtime payment for the one hour flight time to Ithaca. He is not entitled to overtime pay for the time consumed in traveling to and from the Ithaca airport, but is entitled to overtime for the one hour spent traveling between Newark Airport and his residence. If the employee returns to New York City on Tuesday night he will not be entitled to overtime pay unless his presence in New York is required by an event which cannot be controlled or scheduled administratively, as provided in the Comptroller General decision B-163654, April 19, 1968.

**Case No. 2:**

A poultry inspector completes his 8-hour regular tour of duty at a poultry plant. Due to the emergency absence of an employee at another plant, he is ordered to report for relief duty at that plant which is one hour's distance by car. He drives to the second plant, works two hours there, and spends one-half hour driving home.

**Determination:**

The Consumer and Marketing Service is required by law to furnish inspection service at all times when a poultry plant is in operation. Because of the emergency absence of another employee; scheduling the relief duty of the poultry inspector at the second plant is, therefore, not within administrative control of the Consumer and Marketing Service. The poultry inspector is entitled to two hours' overtime for the work performed at the second plant, but will be entitled to overtime pay for the time spent traveling to the second plant only if the second plant is located outside the inspector's official duty station. If the second plant is located outside his official duty station, overtime pay for travel to the inspector's residence will also be governed by Comptroller General decision B-163654, April 19, 1968.

**Case No. 3:**

The Social Security Administration operates contact stations located away from their district and branch office to provide service to the public. A representative may appear at a contact station on a weekly or monthly basis. The Social Security Administration public service policy requires that all people calling at the contact station be taken care of since many of them may have driven a substantial distance for the service. As a result, the field representative may have to work overtime at the contact station as well as drive back to his official duty station after the normal 8-hour day.

**Determination:**

Although the number of people calling at a contact station cannot be controlled or scheduled, the contact station hours could be scheduled.

It is only for policy reasons that the Social Security Administration operates the station until all the public is served. The employee is entitled to overtime pay for the actual overtime hours worked, but not for the travel time in returning to his residence.

**Case No. 4:**

For reasons of economy, an employee is directed to travel by military aircraft, boat, etc., although commercial transportation is available within the employee's regularly scheduled tour of duty.

**Determination:**

Availability or limitation on travel funds does not constitute an administratively uncontrollable event within the statute or the Commission's regulations, and the hours of travel are not hours of employment.

**Case No. 5:**

Training courses by private organizations generally are scheduled to start at the beginning of the workweek. Attendance at a training course conducted in a location away from an employee's duty station may require the employee to travel outside his normal work hours.

**Determination:**

Unless the training course is conducted by a private institution for the benefit of the Government, when a training course is conducted by an institution outside the Government, it is an event which cannot be scheduled or controlled administratively and required travel outside the employee's regular work hours to attend the training course will be considered hours of employment. However, when a training course is conducted by an institution for the benefit of the Government, it is to be assumed that the Govern-

ment can control the scheduling of the course and therefore the event is under administrative control of the Government.

Thus, when a training course is conducted by a private institution, but not solely for the benefit of the Government, if the course is completed on Thursday, and the employee returns that night, the hours spent traveling will be hours of employment only if he is ordered to return that night and his return is required by an event which could not be scheduled or controlled administratively; if he is permitted the option of returning during his regularly scheduled work hours on Friday, his return on Thursday night will not be payable since he is not officially ordered to return.

On the other hand, if the employee (whose regular hours of work are 8 a.m. to 5 p.m., Monday through Friday) completes the course at 5 p.m. Friday, his travel on either Friday night or Saturday (depending on availability of transportation) will be payable, because, under a decision of the Comptroller General (B-160258, November 21, 1966), he is not entitled to per diem if he should remain until Monday, and thus, his travel time cannot be controlled realistically.

It should be noted here that the provision of 5 U.S.C. 4109(a)(1) which prohibits payment of premium pay to employees during periods of training (except when specifically authorized by the Commission) does not prevent payment of overtime pay to employees traveling to and from places of training.

**Case No. 6:**

The Department of Justice sponsors an interagency conference in Chicago on the causes of crime. The conference is scheduled to begin at 9 a.m. Mon-



day morning. The Department of Justice and other participating agencies have employees attending from various points in the United States, and generally the travel involved is performed on Sunday afternoon.

*Determination:*

An interagency conference of this type would be considered a joint endeavor of the several participating agencies and within their administrative control. Consequently, overtime pay for the travel involved could not be granted by any of the agencies.

(v) *Conditions under which travel is work.*

The above conditions do not apply to work situations involving travel which is an inherent part of, and inseparable from, the work itself. In such events when an agency determines that the travel represents an additional incidental duty directly connected with the performance of a given job, and is therefore considered to be an assigned duty, the time spent in travel is work time and will be payable at regular or overtime rates, as appropriate. (See Comptroller General decisions B-146389, February 1, 1966, and B-163042, May 22, 1968.)

(vi) *Responsibility for scheduling travel.*

Under section 610.123 of the Commission's regulations, agencies are delegated to record the reasons for requiring travel outside the workweek, when the travel is not payable under section 550.112(e). Agencies can best determine what officer or official level within the agency is best equipped to determine when travel is required to be performed outside the workweek; generally, this will be the level of authority which orders or approves an employee's overtime work.

(vii) *Conclusion.*

Whenever possible an employee's

travel should be scheduled within his regular work hours. However, situations will develop where the employee will be required to travel outside his regular work hours, and that travel takes him away from his official duty station. If the travel meets the criteria for one of the four conditions described above, the travel time will be considered hours of work and payable; if not, the travel time is not payable and the reasons for requiring the travel must be recorded.

(3) *Call-back overtime.* (a) *Law.* "(b) For the purpose of this subchapter—(1) unscheduled overtime work performed by an employee on a day when work was not scheduled for him, or for which he is required to return to his place of employment, is deemed at least two hours in duration; . . . ." (Section 5542 of title 5, United States Code)

(b) *Regulation.* "(f) *Call-back overtime work.* Irregular or occasional overtime work performed by an employee on a day when work was not scheduled for him, or for which he is required to return to his place of employment, is deemed at least two hours in duration for the purpose of premium pay, either in money or compensatory time off." (Section 550.112)

c. *Overtime pay.* (1) *Per annum. Regulation.* "Computation of overtime pay. (a) For each employee whose rate of pay does not exceed the minimum rate for GS-10 the overtime hourly rate is one and one-half times his hourly rate of basic pay.

"(b) For each employee whose rate of basic pay exceeds the minimum rate for GS-10 the overtime hourly rate is one and one-half times the hourly rate of basic pay at the minimum rate for GS-10.

"(c) An employee is paid for overtime work performed on a Sunday or a holiday at the same rate as for overtime work performed on another day." (Section 550.113)

(2) *Wage system overtime and Sunday rates; computation.* (a) *Law.* "(a) An employee whose

basic rate of pay is fixed and adjusted from time to time in accordance with prevailing rates by a wage board or similar administrative authority serving the same purpose is entitled to overtime pay for overtime work in excess of eight hours a day or 40 hours a week. However, an employee subject to this subsection who regularly is required to remain at or within the confines of his post of duty in excess of eight hours a day in a standby or on-call status is entitled to overtime pay only for hours of duty, exclusive of eating and sleeping time, in excess of 40 a week. The overtime hourly rate of pay is computed as follows:

"(1) If the basic rate of pay of the employee is fixed on a basis other than an annual or monthly basis, multiply the basic hourly rate of pay by not less than one and one-half.

"(2) If the basic rate of pay of the employee is fixed on an annual basis, divide the basic annual rate of pay by 2080, and multiply the quotient by one and one-half.

"(3) If the basic rate of pay of the employee is fixed on a monthly basis, multiply the basic monthly rate of pay by 12 to derive a basic annual rate of pay, divide the basic annual rate of pay by 2,080, and multiply the quotient by one and one-half.

An employee subject to this subsection whose regular work schedule includes an 8-hour period of service a part of which is on Sunday is entitled to additional pay at the rate of 25 percent of his hourly rate of basic pay for each hour performed during that 8-hour period of service. Time spent in a travel status away from the official duty station of an employee subject to this subsection is not hours of work unless the travel (i) involves the